

**OPINION  
67-259**

April 12, 1967            (OPINION)

Mr. Leo J. Beauclair

State's Attorney

Barnes County

RE:   Taxation - Discount - Prior Delinquent Taxes

Your letter of March 28, 1967, is quoted in part as follows:

Section 57-20-09 of the North Dakota Century Code provides in part as follows, 'Discount for early payment of tax. - The county treasurer shall allow a five per cent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency.'

In answer to an inquiry by the Barnes County Treasurer, I advised that the discount would apply to a taxpayer who pays his current real estate prior to the 15th of February, even though the taxpayer may owe delinquent taxes for preceding years.

In other words, a farmer may have unpaid taxes for three years and then the assessment is made for a fourth year which is the current year, and he decides to pay the current year's taxes in order to obtain the discount, can the treasurer allow this discount?

We would appreciate your opinion on this matter as to whether this is a correct interpretation of the statute."

As your question apparently refers to farm land, it is assumed that installments of special assessments are not involved and, therefore, it is not necessary to consider Section 40-24-16 of the 1965 Supplement to the North Dakota Century Code in answer to your inquiry.

Section 57-20-09 relates to the five percent discount allowed for early payment of real estate taxes and is quoted as follows:

57-20-09.   DISCOUNT FOR EARLY PAYMENT OF TAX. - The county treasurer shall allow a five per cent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency.   Such discount shall apply to all general real estate taxes levied for state, county, city, township, village, school district, and park district purposes, but shall not apply to personal property taxes, special assessment installments, or hail indemnity taxes.   Whenever the county commissioners, by resolution, determine that an emergency exists in any county by

virtue of weather or other catastrophe they may extend the discount period for an additional thirty days."

It would appear that the purpose of the above statute is to encourage taxpayers to promptly pay current real estate taxes. In examining this section, it is noted that specific reference is made to the payment of "all real estate taxes levied \* \* \* in any one year". Thus, it is our opinion that the statute requires the allowance of the discount if the current year's real estate taxes are paid in full within the prescribed time, even though there may be unpaid taxes for prior years.

In examining Section 57-20-09 in relation to other provisions of the Code providing for the payment of delinquent real estate taxes or sales for delinquent real estate taxes, it would appear that those statutory provisions are not in conflict with the above conclusion.

HELGI JOHANNESON

Attorney General